

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2150 OF 2006

Mr. Haribhai Dahyabhai Sagar ... Petitioner

Vs.

Union of India & Ors. ... Respondents

Mr. V.N. Bhagodia for the petitioner.

Mr. Manoranjan Sahu for respondent 1.

Ms. A.S. Pai, A.P.P. for the State.

**CORAM : SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.**

DATED : 22ND FEBRUARY, 2007.

P.C.:-

1. The petitioner claims to be the owner of vessel "Vikram Prasad". He claims that he had given this vessel on rent to one Makan Dabhelia. According to him, the vessel was registered at Valsad on 20/12/1988. He contents that this vessel was illegally renamed as "Parvati Prasad" after forging the documents. The petitioner claims that he came to know that this vessel was used to bring contraband goods. According to him, on information given by him, the Customs Officers caught this vessel with contraband goods i.e. gold biscuits. The gold biscuits and the vessel were confiscated absolutely. The petitioner was not a noticee in the adjudication proceedings.

The petitioner filed an appeal being Appeal No.C/27/94/Bom in the Customs, Central Excise & Gold (Control) Appellate Tribunal, West Zonal unit, Mumbai, (for convenience, "the Tribunal"). On 24/3/1994, the Tribunal passed an order releasing the vessel in favour of the petitioner on payment of redemption fine of Rs.75,000/-. Respondent 3 preferred an application for rectification of error in order dated 24/3/1994 on the ground that the material facts relating to ownership were overlooked. On 15/7/1997, the Tribunal passed an order recalling the order dated 24/3/1994. Thereafter, on 29/9/1994, the Tribunal passed an order rejecting the petitioner's claim for release of the vessel.

2. The petitioner filed an application for modification before the Tribunal for rectification of the error and for restoration of its order dated 24/3/1994 whereby the vessel was ordered to be released on redemption fine of Rs.75,000/-. However, on 16/4/2002, the petitioner did not remain present before the Tribunal. The Tribunal upheld its order dated 29/9/1994 rejecting the petitioner's claim on the vessel. The Tribunal noted that though notice dated 13/2/2002 was issued to the petitioner, the petitioner did not remain present. Admittedly, the petitioner had not preferred any appeal against the said order. The petitioner has instead filed this belated writ petition in August/September, 2006 praying inter alia for release of the vessel Vikram Prasad and for award. It is clear that the remedy available in law to the petitioner has not been availed of by the petitioner. In such circumstances, we are unable to entertain this belated writ petition. Besides, we feel that the

question of ownership has been dealt with by the Tribunal in its order dated 29/9/1994 and we do not find any perversity in the said order. However, so far as the petitioner's claim for reward is concerned, if any application made by the petitioner is pending or if the petitioner makes any fresh application, the respondents shall consider it in accordance with law. The petition is disposed of.

[SMT. RANJANA DESAI, J.]

[ANOOP V. MOHTA, J.]